

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6506 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BILASHWAR KHAND UDYOG KHEDUT SAHAKARI MANDLI LTD

Versus

JESINGBHAI SAMANTBHAI DODIA

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Appearance:

MR DM THAKKAR for Petitioner

MR HK RATHOD for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/12/97

ORAL JUDGEMENT

1. Challenge has been made by the petitioner to the order of the Labour Court, Rajkot dated 2-3-1985 in Recovery Application No.997/82 under which the amount of Rs.7903-24ps. was computed in favour of the respondent-workman under section 33-C(2) of the Industrial Disputes Act, 1947.

2. The learned counsel for the petitioner relying on

two decision of the Hon'ble Supreme Court in the case of Municipal Corporation of Delhi vs. Ganesh Razak reported in 1995 (1) SCC 235 and in the case of Union of India vs. Gurbachan Singh & Anr. reported in 1997(5) SCC 59 contended that the Labour Court has no jurisdiction to compute the amount in the present case. The jurisdiction of the Labour Court under section 33-C(2) of the I.D. Act, 1947 is of an executing Court and unless the claim of the workman is adjudicated or where the employer has accepted his claim, no computation of any monetary benefits could have been ordered.

3. On the other hand, the counsel for the respondent contended that the claim of the workman-respondent for giving him the 'B' grade has been accepted by the petitioner and as such the Labour Court has not committed any error or illegality whatsoever in passing of the impugned order.

4. I have given my thoughtful consideration to the submissions aforesaid of the learned counsel for the parties.

5. From para-9 of the judgment of the Labour Court, I find that under the document Ex.26 i.e. the resolution of the Joint Management Council dated 30th July, 1982, it has been unanimously resolved to give grade of Rs.305/instead of Rs.255/- to the respondent-workman. This finding of fact has not been challenged by the counsel for the petitioner. Only contention has been made that it was only a proposal to give the grade of Rs.305/- to the respondent-workman instead of Rs.255/but I do not find any substance in this contention. Document Ex.26 has been referred very specifically by the Labour Court and it was a resolution which has been passed in the meeting of Joint Management Council consisting of the members elected by the workmen and the Management also. It is an admitted case of the parties that 'B' grade is of Rs.305/-. So the right of workman for computation of money benefits certainly follows from the document Ex.26. The management has in fact not only admitted but granted the benefits of 'B' grade to the respondent-workman.

6. Taking into consideration the totality of the facts of this case, I do not find any illegality in the order impugned before this Court.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

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zgs/-